

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHRISTOPHER WILLIAM HARRIS,

CASE NO. 2:21-cv-01335-BHS-TLF

Plaintiff,

ORDER

TULALIP POLICE DEPARTMENT, et al.,

Defendants.

THIS MATTER is before the Court on Magistrate Judge Theresa L. Fricke’s Report and Recommendation (R&R), Dkt. 92, recommending that the Court grant Defendant Jose Perez’s motion for summary judgment, Dkt. 71, on pro se Plaintiff Christopher Harris’s Fourth Amendment excessive force 42 U.S.C. § 1983 claim based on Perez’s “initial takedown” of Harris during his arrest. Dkt. 92 at 17–23. It recommends denying Perez’s summary judgment motion seeking qualified immunity from Harris’s § 1983 excessive force claim based on the remainder of the actions Perez took against him that day. *Id.* at 23–32. It also recommends denying Perez’s motion to

1 dismiss under Federal Rule of Civil Procedure 37(d) and Local Civil Rule 11(c) based on
2 Harris's failure to respond to discovery. *Id.* at 32–37.

3 Neither Harris nor Perez have objected to the R&R.

4 A district court “shall make a de novo determination of those portions of the report
5 or specified proposed finding or recommendations *to which objection is made.*” 28
6 U.S.C. § 636(b)(1)(C) (emphasis added); *accord* Fed. R. Civ. P. 72(b)(3). “The statute
7 makes it clear that the district judge must review the magistrate judge’s findings and
8 recommendations de novo *if objection is made*, but not otherwise.” *United States v.*
9 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). A proper objection requires
10 “specific written objections to the proposed findings and recommendations” in the R&R.
11 Fed. R. Civ. P. 72(b)(2).

12 The R&R is **ADOPTED**. Perez’s summary judgment motion on Harris’s § 1983
13 excessive force claim based on the “initial takedown” is **GRANTED**, and to the extent
14 that was a stand-alone claim, it is **DISMISSED**. Perez’s motion for summary judgment
15 on the remaining excessive force claims is **DENIED**. His motion to dismiss under Fed.
16 R. Civ. P. 37(d) and LCR 11(c) based on Harris’s discovery practices is **DENIED**.

17 The case remains **REFERRED** to Magistrate Judge Fricke.

18 **IT IS SO ORDERED.**

19 Dated this 31st day of October, 2023.

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BENJAMIN H. SETTLE
United States District Judge